

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 11/10/2015	(3) CONTACT/PHONE John Diodati, Project Manager/Department Administrator (805) 788-2832	
(4) SUBJECT Hearing to consider a resolution calling for a special tax election to impose a special tax upon parcels located within Flood Control District Zone 19 for the purpose of funding the services necessary to comply with the requirements of the Sustainable Groundwater Management Act of 2014; approve the Acreage and Land Use Category appeal document; consider and provide direction to staff regarding the development of a ballot argument and rebuttal for the proposed special tax measure in Zone 19; direct the Director of Public Works to write a letter to the State Water Resources Control Board (SWB) formally requesting information specific to fees and management activities in the Paso Basin if SGMA was implemented by the SWB; and find that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA). Districts 1 and 5.			
(5) RECOMMENDED ACTION It is recommended that the Board, acting as the Board of Supervisors for the San Luis Obispo County Flood Control and Water Conservation District (Flood Control District): <ol style="list-style-type: none"> 1. Adopt the attached resolution calling for an election to impose a special tax upon parcels located within Flood Control District Zone 19 for the purpose of funding the services necessary to comply with the requirements of the Sustainable Groundwater Management Act of 2014 (SGMA); and 2. Review and approve the Acreage and Land Use Category (LUC) appeal document; and 3. Consider and provide direction to staff regarding the development of a ballot argument and rebuttal for the proposed special tax measure in Zone 19; and 4. Direct the Director of Public Works to write a letter to the State Water Resources Control Board (SWB) formally requesting information specific to fees and management activities in the Paso Basin if SGMA was implemented by the SWB; and 5. Find that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA). 			
(6) FUNDING SOURCE(S) San Luis Obispo County Fund 19 (Fund 1304000000)	(7) CURRENT YEAR FINANCIAL IMPACT \$314,400.00	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>100 min</u>) <input type="checkbox"/> Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: 4/21/15, #26	
(17) ADMINISTRATIVE OFFICE REVIEW David E. Grim			
(18) SUPERVISOR DISTRICT(S) District 1 District 5			

Reference: 15NOV10-H-2

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works

John Diodati, Project Manager/Department Administrator

Wade Horton, Director of Public Works

DATE: 11/10/2015

SUBJECT: Hearing to consider a resolution calling for a special tax election to impose a special tax upon parcels located within Flood Control District Zone 19 for the purpose of funding the services necessary to comply with the requirements of the Sustainable Groundwater Management Act of 2014; approve the Acreage and Land Use Category appeal document; consider and provide direction to staff regarding the development of a ballot argument and rebuttal for the proposed special tax measure in Zone 19; direct the Director of Public Works to write a letter to the State Water Resources Control Board (SWB) formally requesting information specific to fees and management activities in the Paso Basin if SGMA was implemented by the SWB; and find that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA). Districts 1 and 5.

RECOMMENDATION

It is recommended that the Board, acting as the Board of Supervisors for the San Luis Obispo County Flood Control and Water Conservation District (Flood Control District):

1. Adopt the attached resolution calling for an election to impose a special tax upon parcels located within Flood Control District Zone 19 for the purpose of funding the services necessary to comply with the requirements of the Sustainable Groundwater Management Act of 2014 (SGMA); and
2. Review and approve the Acreage and Land Use Category (LUC) appeal document; and
3. Consider and provide direction to staff regarding the development of a ballot argument and rebuttal for the proposed special tax measure in Zone 19; and
4. Direct the Director of Public Works to write a letter to the State Water Resources Control Board (SWB) formally requesting information specific to fees and management activities in the Paso Basin if SGMA was implemented by the SWB; and
5. Find that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA).

DISCUSSION

Background

On January 27, 2015, your Board directed staff to return with a resolution of application and related material within approximately ninety (90) days for the potential formation of the Paso Robles Basin Water District (Water District) as described in Assembly Bill 2453 (2014) (AB 2453) in the unincorporated portions of the Paso Robles Groundwater Basin (Basin).

On April 21, 2015, staff returned to your Board with an application to the Local Agency Formation Commission (LAFCO) which your Board approved. Approval and submission of the application commenced LAFCO's official review process.

On June 25, 2015, LAFCO sent its 30-Day Initial Review Letter to the Public Works Department in which it requested submittal of, among other things, "the Phase II NBS funding report that provides for a more detailed analysis of the revenues and the funding mechanisms to be used to fund the Water District."

On August 18, 2015, your Board approved the Phase II NBS Funding report which recommended a special tax levied by the Flood Control District as the mechanism to fund SGMA compliance activities.¹ Your Board further directed staff to return to the Board at the appropriate time to initiate special tax proceedings.

On August 20, 2015 and on September 17, 2015, LAFCO conducted public hearings on the formation of the Water District. At its September 17th hearing, LAFCO adopted a resolution establishing the boundaries of the proposed Water District and approving the formation of the Water District subject to, among other things, "approval of a Proposition 218 proposal capable of funding the activities of the [Water] District."

On October 6, 2015, in order to initiate Proposition 218 proceedings and the establishment of Zone 19, your Board adopted a resolution specifying its intention to establish Zone 19 and fixing November 10, 2015 as the date of the public hearing on the matter. Assuming your Board approves a resolution establishing Zone 19 during the public hearing, your Board will be able to adopt the attached resolution calling for the special tax election during this subsequent hearing item.

Public Hearing

The purpose of today's action is for the Board to hold the public hearing necessary in order to establish the special tax in Zone 19 subject to voter approval and to call for the required election by adopting the attached resolution. Notice of the public hearing was published in a newspaper of general circulation, according to statute. The formula for the special tax was developed by the firm NBS, in conjunction with County staff, and is based on substantial community feedback, including an endorsement by the Paso Basin Advisory Committee.

¹ The Flood Control District is authorized to establish a zone and levy and collect a special tax within said zone by the authority of Section 5-11 and Section 13-3 of the San Luis Obispo County Flood Control and Water Conservation District Act and in accordance with Government Code Sections 53720 et seq. and 50075 et seq. and Articles XIII A and XIII C of the California Constitution. In addition, Government Code Section 50077 authorizes the legislative body of a local agency which is conducting proceedings for the formation of a district to propose by ordinance or resolution the adoption of a special tax on behalf of an affected district.

The Phase II NBS report, included as Attachment A, outlines the special tax approval process and details the rate schedule of the proposed funding, with a target of generating enough revenue for a \$950,000 annual budget. The formula is based on three factors 1) an “all parcel” charge levied on all parcels, 2) a land-use category (LUC) charge levied on single-family residential (SFR), multi-family residential (MFR), Commercial/Government, and vacant (as assigned by the Assessor’s office as the primary use of the parcel), and 3) an acreage based charge for both non-irrigated and irrigated acreage.

The goal of the funding formula is to develop an equitable and reasonable allocation of costs based on the best data available that is simple to understand, accounts for the fact that all parcels in the Paso Basin need to comply with the SGMA, and is representative of the historic pumping within the Paso Basin (agriculture pumps approximately 90% of the groundwater within Zone 19). After considerable outreach by staff, including an endorsement by the Paso Basin Advisory Committee at a special meeting on August 3, 2015, the following funding formula was developed in order to generate an adequate annual operating budget for either the Flood Control District or Water District:

COUNT	PER PARCEL CHARGE	RATE PER PARCEL OR ACRE	REVENUE GENERATED	% OF TOTAL
6,512	Total parcels	\$ 15.00	\$ 97,680.00	10%
	PER UNIT CHARGE			
3,858	SFR Parcels	\$ 20.00	\$ 77,160.00	8%
319	MFR Parcels	\$ 40.00	\$ 12,760.00	1%
129	Commercial/Gov per Parcel	\$ 100.00	\$ 12,900.00	1%
2,206	Vacant	\$ 10.00	\$ 22,060.00	2%
				13%
	PER ACRE CHARGE			
312,546	Non-Irrigated Acres (ALL)	\$ 0.25	\$ 78,136.50	8%
36,462	Irrigated Acres	\$ 18.00	\$ 656,316.00	69%
				77%
	TOTAL		\$ 957,012.50	100%

With this funding formula, a rural resident would pay the \$15/year parcel charge plus the SFR charge of \$20/year plus \$0.25 per acre for non-irrigated land. For example, a 10 acre homeowner with no identified irrigated land would have an annual cost of \$37.50. Another way to look at the charge for SFR is that all SFR pays \$35 plus \$0.25 per acre. If identified as having irrigated land, a SFR parcel may also incur the \$18/acre charge for those acres being irrigated.

Rangeland, open space and any other property not categorized as irrigated acreage would pay the \$15/year parcel charge plus the \$10/year vacant charge plus \$0.25 per acre. For example, a 640 acre parcel being utilized as rangeland would have an annual cost of \$185.

Irrigated agriculture would pay the \$15/year parcel charge plus the \$10/year vacant charge plus \$18 per acre of irrigated land. For example, a 100 acre parcel with 50% of the parcel being utilized for irrigated agriculture would pay \$937.50/year.

Another way to look at the formula is to calculate costs on the same size parcel for various types of land use. The following chart shows the impact of the funding formula to SFR, MFR, commercial, rangeland and irrigated agriculture for 10, 25 and 100 acre parcel sizes.

10 Acre Parcel	Annual Charge	25 Acre Parcel	Annual Charge	100 Acre Parcel	Annual Charge
SFR	\$37.50	SFR	\$41.25	SFR	\$60.00
MFR	\$57.50	MFR	\$61.25	MFR	\$80.00
Commercial	\$117.50	Commercial	\$121.25	Commercial	\$140.00
Rangeland	\$27.50	Rangeland	\$31.25	Rangeland	\$50.00
Irrigated Ag (100% of Acreage Irrigated)	\$205.00	Irrigated Ag (100% of Acreage Irrigated)	\$475.00	Irrigated Ag (100% of Acreage Irrigated)	\$1,825.00

It is important to note that based on stakeholder feedback, your Board directed staff to utilize “actual” irrigated acres instead of the acreage of the entire parcel assigned an Irrigated Agriculture land use category by the Assessor. Since the Assessor does not maintain acreage data at the parcel level, staff coordinated with the Agricultural Commissioner’s Office and utilized the data the Agricultural Commissioner’s Office has integrated into GIS imagery.

A total amount of 36,462 irrigated acres is contained in the Agricultural Commissioner’s database (as of 2014). This acreage was assigned to the corresponding Assessor’s Parcel Number (APN) and a document has been created that contains: APN, primary land use category, total acreage per parcel, irrigated acreage per parcel and proposed special tax. This document, included as Attachment B, can be reviewed by property owners (as well as all other interested parties) to determine if the information for their parcel(s) is correct. Any discrepancy can be addressed through the appeal process which is outlined in the acreage and land use category policy document included as Attachment C.

Special Tax Registered Voter Election

Ballots will be sent to the approximately 6,000 registered voters within the Zone 19 (and Water District) boundary and establishment of the special tax requires a 2/3 approval of returned ballots. As discussed previously, the special tax is being proposed by the Flood Control District under the authority of the Flood Control District Act, and the proceeds may be used for SGMA compliance by either the Flood Control District or by the Water District in accordance with an agreement between the Flood Control District and the Water District. The election on whether to approve the special tax (a Flood Control District measure) is entirely separate and independent from the election on the

formation of the Water District (called by the County Board of Supervisors as required by the Government Code Section 57000) except that establishment of a funding mechanism is a condition on the formation of the Water District. Based on the above, the proposed question to be submitted to the voters is the following:

Shall a special tax be levied within Zone 19 to fund local groundwater management and compliance with the mandatory provisions of the Sustainable Groundwater Management Act of 2014, and allocated to parcels at the rates set forth in Exhibit A of the Resolution calling for an election on the special tax approved by the Board of Supervisors on November 10, 2015?

By taking this approach, individuals who are not in support of the Water District as the local agency that will represent them with respect to SGMA compliance can still vote yes on funding and have the Flood Control District obtain the revenue necessary for SGMA compliance. Regardless of the results of the formation election, should the special tax fail, staff would return to your Board with the option of trying the same funding approval process again, because establishment of an independent funding mechanism is needed in order to fund basin-specific SGMA compliance efforts. If the Board did not want to try to reattempt funding approval and the County elected not to be the GSA, the State Water Resources Control Board (SWB) would likely impose fees on all groundwater users within the unmanaged area.

The fees imposed by the State Water Resources Control Board for State management of a basin are unknown at this time, and are not required to be developed under SGMA until July 1, 2017. However, staff has learned through stakeholder outreach that this fee information is very important to voters as they consider approval of a local tax for SGMA compliance. During LAFCO proceedings, the SWB attended meetings and made presentations regarding SWB management and associated fees, but could not elaborate beyond statements that SWB management would most likely be demand management only and more expensive than local funding. Now that the Flood Control District has established the amounts of the special tax for local SGMA compliance, and in order to provide as much information to voters as possible, staff is seeking direction from your Board to write a letter to the SWB formally requesting its review of the local special tax and how it might compare to SWB fees and management for SGMA compliance in the Paso Robles Groundwater Basin. Staff believes this additional information will assist voters in their decision on how to vote for the proposed special tax.

Acreage and LUC Appeal Process

Using the data in Attachment B for guidance, property owners can review the assigned gross acreage, irrigated acreage and LUC assigned to each parcel with a unique APN. In order for a transparent appeal process, staff is requesting that your Board adopt the appeal process document included as Attachment C.

The recommended policy for reviewing acreage is a two part process. First, with respect to total acreage, the landowner must demonstrate the acreage is off by more than 5% in order to trigger a review. With respect to irrigated acreage, the landowner must demonstrate the acreage is off by more than 5% or demonstrate a correction totaling more than ten acres. Review of total parcel acreage will be conducted by the Assessor's Office and its determination will be final. Review of irrigated acreage will be conducted by the Agricultural Commissioner's Office, in conjunction with the Assessor's Office, and its determination will be final as well. The policy discusses what type of documentation may need to be provided in order to demonstrate a discrepancy in the acreage assignment.

Regarding disagreements on LUC, the landowner may provide information to the Assessor's Office which will be reviewed by their office. Details of the process are included in the Acreage and LUC Appeal Process document included as Attachment C.

It should be noted that the appeals process only addresses total acreage determinations with respect to the special tax calculation. Water Code Section 37912, subdivision (e) places additional constraints on acreage determinations with respect to the landowner board of director vote. More specifically, the voters list for the purpose of the election of directors must be based upon the last assessment roll prepared by the County Assessor subject to amendment based only on a proven change of ownership.

Arguments For/Rebuttals/Impartial Analysis

Since the special tax is a ballot measure and because the notice of the election provides that Article 3 of Division 9, Chapter 2 of the Elections Code shall apply to the special election, the Board of Supervisors may file an argument not exceeding 300 words for or against the measure.² If your Board elects to submit an argument and more than one argument (on the same position) is submitted, priority will be given to the opinion submitted by the Board.³

If your Board desires to submit an argument, the due date is December 9, 2015. If the entire Board desires to approve the text of the argument, staff would need to return to your Board by the December 8, 2015 meeting with the proposed language. In the alternative, your Board could authorize two members to draft and submit an argument. If your Board decides not to submit an argument for the measure, then the County Clerk would receive and publish arguments in accordance with the priorities set forth in Elections Code Section 9166.

When an argument in favor and an argument against the measure have been selected, the Elections Official will send copies of the argument in favor to the authors of the argument against and the argument against to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words. Thus, if your Board elects to write an argument in favor of the measure it will also be given the opportunity to submit a rebuttal to the argument against. Due to agenda processing and scheduling, the ability of your Board to submit a rebuttal approved by the entire Board is more problematic. The rebuttal is due on December 21. While your Board does meet on December 15, the staff report would need to be submitted to your Board as a corrigenda item. If the Board authorizes two members to submit an argument and a rebuttal, the timing issue would be mitigated.

² Elections Code Section 9168; Elections Code Section 9162, subdivision (a) provides as follows: "The board of supervisors or any member or members of the board, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of these voters and associations may file a written argument for or against any county measure."

³ Elections Code Section 9166 provides as follows: "If more than one argument for or more than one argument against any county measure is submitted to the county elections official within the time prescribed, the county elections official shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the argument the county elections official shall give preference and priority in the order named to the arguments of the following: (a) The board of supervisors or a member or members of the board. (b) The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure. (c) Bona fide associations of citizens. (d) Individual voters who are eligible to vote on the measure."

Regarding the impartial analysis, the Elections Code designates County Counsel as the entity that shall prepare the impartial analysis.⁴ The Office of County Counsel has been notified of its obligation to provide such analysis.

Staff Direction

Staff is seeking adoption of the Resolution calling for a special tax election in Zone 19 which will initiate Proposition 218 proceedings to establish a local source of funding for SGMA compliance. Additionally, staff is seeking approval of the acreage and LUC appeal process, as well as your intent to submit an argument for the ballot measure.

Next Steps

Calling for the special tax election will trigger a sequence of events related to the election. This schedule can be reviewed in Attachment D. The all-mail ballot election will conclude on March 8, 2016, and it is anticipated staff will return to your Board on April 5, 2016 to report the results of the election and seek direction on SGMA compliance. If the voters approve the special tax and the formation of the Water District, then the Flood Control District will transfer the special tax revenue to the Water District for SGMA activities pursuant to an agreement.⁵ If the special tax is approved, but the Water District is not formed, the Flood Control District will have the option to choose to become or participate in a Groundwater Sustainability Agency and utilize the approved special tax to fund SGMA compliance activities thereby saving taxpayers the expense of a second special tax election for the same purposes.

OTHER AGENCY INVOLVEMENT/IMPACT

Other agencies that have worked on the Proposition 218 funding mechanism are as follows:

County Clerk, County Assessor, County Counsel, Agricultural Commissioner's Office and the Paso Basin Advisory Committee.

FINANCIAL CONSIDERATIONS

\$314,400 from Flood Control District reserves has been allocated to Flood Control Fund 19 to fund the application process through this fiscal year.

⁴ Elections Code 9160 provides as follows: "(a) Whenever a county measure qualifies for a place on the ballot, the county elections official shall transmit a copy of the measure to the county auditor and to the county counsel or to the district attorney in a county that has no county counsel. (b) The county counsel or district attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the board of supervisors. The analysis shall be printed preceding the arguments for and against the measure. The analysis may not exceed 500 words in length."

⁵ Section 13-3 of the Flood Control District Act authorizes the Flood Control District to enter into contracts with other governmental bodies for the transfer of tax proceeds for the performance of the purposes of the Flood Control District within an established zone. In addition, as indicated above, Government Code Section 50077, subdivision (c), authorizes the legislative body of a local agency which is conducting proceedings for the formation of a district to propose a special tax on behalf of said district.

RESULTS

Approval of the recommended action will allow the registered voters in Zone 19 to decide if they support a local source of funding for SGMA compliance.

File: 340.280.01

Reference: 15NOV10-H-2

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ATTACHMENTS

- A - NBS Phase II Parcel Tax Report
 - B - APN List with Proposed Parcel Charges
 - C - Acreage and LUC Appeal Process
 - D - Special Tax Election Schedule
 - E - Notice of Exemption finding that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA)
- Resolution of the San Luis Obispo County Flood Control and Water Conservation District, California, Calling for a Special Tax in Zone 19 for SGMA Compliance